RESPONSES TO:

US
DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration
Request for Comments to

Docket No.
HM-HM-215E
[RSPA-2002-13658]
[RIN 2137-AD41]

Notice of Proposed Rulemaking
Dated
December 3, 2002

Entitled:

Harmonization with the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions

PREPARED BY:

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Fisher Scientific Company L.L.C. (Fisher), headquartered at 2000 Park Lane, Pittsburgh, PA 15275, is a multinational chemical manufacturer, distributor and agent with annual sales in excess of $2.9 billion. In addition to our Chemical manufacturing division, which includes ACROS Organics, Fisher owns or operates an educational division which provides chemicals and learning devices for secondary and high schools, a health care division which provides medicines and medical devices to health care providers, two facilities which manufacture and distribute chemical laboratory equipment such as glassware, tables, shelving and various laboratory equipment, Safety Equipment Company (SEC) which provides fire fighting equipment to fire departments throughout the southeastern United States, several other businesses providing various research chemicals or equipment to perform analyses or evaluations of compounds, and Fisher provides several catalogues of independently manufactured articles for resale either under the Fisher name or through the Fisher distribution systems. Fisher has over 10 production locations in the United States and 20 independent warehouse or distribution locations for national distribution plus another 10 warehouses dedicated to and serving a single customer. These locations offer in excess of 2000 packages per day for transportation, most of them small packages of less than 50 pounds gross weight. Fisher primarily ships via small package carriers such as UPS, FedEx, Airborne, and LTL carriers. Many of our materials are considered hazardous under the US DOT regulations.

Fisher appreciates having the opportunity to comment upon the Notice of Proposed Rulemaking (NPRM). We understand that many of the proposed changes are being considered due to the publication of information in the UN Recommendations for the Transport of Dangerous Goods, and as an accommodation to international regulations. Fisher supports harmonization of transportation regulations and acknowledges the DOT for attempting to establish this harmonization as expeditiously as possible. Due to the nature of our business, Fisher has a few comments to make concerning the proposed implementation of these changes.

Changes to shipping papers, dangerous goods declarations and water transportation documents always present a major issue to be considered when changes are proposed. With a few minor exceptions, such as hazardous waste manifests and some unique hazardous material/dangerous goods shipments, all of Fisher's shipping papers are generated by use of computer programs. Therefore, whenever a change to a shipping paper is required, such as the inclusion of subsidiary risk hazard classes, changes in the sequence, or other additional information such as is proposed in this NPRM, we must reprogram the computers to accommodate the changes. Our Information Systems Department estimate that the programming changes required just to include the subsidiary risk and flashpoint information for class 3 materials to be in excess of 400 people hours, which equates to programming costs in excess of $35,000. This cost to Fisher Scientific does not include the requirement to amend our system to include all of the subsidiary risk and flash point information into our system as well as the costs of training our operations people to recognize the change and catch any paperwork not in compliance with the new requirements.

In addition, for the requirement to include subsidiary risks on shipping papers, immediately following the primary risk and enclosed in parenthesis, Fisher questions how we are to comply with this change when using the IATA Shippers' Declaration columnar form. The subsidiary risk column is separated from the primary risk column by two intervening columns, causing it to not be in compliance with the proposed sequencing requirement, and is not large enough to include the proposed required parenthesis. We understand that the DOT recognizes the requirements of ICAO, rather than the IATA Tariff, but the proposed regulatory change poses a compliance issue for all shippers who use the IATA columnar form.

The additional change to include the number and kind of packagings included within a shipment may help roadside inspections,

Fisher Scientific uses many exceptions and exemptions in the shipment of materials to our customers. One of the exceptions that both Fisher and our vendors often use is the limited quantity exception. In some cases Fisher sends only one material in a package utilizing the limited quantity exception, in other cases we may pack more than one compatible material into the same outer package. In either case, the proposed regulation would require us to affix a white diamond with the identification numbers representing the materials included within the package. Fisher strongly urges RSPA to NOT require the use of the identification number on the white diamond as presently is proposed to represent the limited quantity shipments. Fisher submits that to comply with the requirement to include the identification number on every white diamond used to represent a limited quantity shipment, Fisher would have to have in stock, at each of our shipping stations in each distribution center, a limited quantity diamond with every UN number which we now ship using the limited quantity exception. This would represent a stock of labels in the hundreds and excessive costs for shipping.

Rather that requiring the identification number in the center of each diamond, Fisher recommends that a white diamond with the initials LQ in the center be used to represent to the carrier and emergency response personnel the information that the package is offered in compliance with the Limited Quantity provisions. Additionally, the identification number or numbers may be printed on another part of the package, in association with the limited quantity diamond marking, rather than on the white diamond marking. This would allow for the addition of only one "new" label or marking at each shipping location rather than an individual label/mark for each LQ material. The inclusion of this requirement represents a major issue in Fisher's view for the proposed changes. Fisher very strongly urges the DOT to not adopt this change as proposed and implement our alternative.

Fisher Scientific also has an issue with the air eligibility marking requirement. The concept of making the shipper responsible for certifying that the material has been packaged in compliance with the air requirements has been in effect for several years, and has been enforced through the use of the shipper certification. The UN recommendation was limited to certification that the packaging is air eligible, not that the

entire shipment be air eligible. Industry already certifies that the package is in compliance with the air regulations through the shipper's certification on the shipper's declaration. This NPRM appears to add additional requirements in excess of the UN recommendations. It appears that this NPRM will require an additional "certification" with the air eligible mark. This requirement for a shiper to mark the package with the airplane in a circle as a further "notice" or certification to the carrier that the package is air eligible appears to Fisher as redundant.

In actual practice, Fisher believes that the manufacturer will preprint the air eligible mark on the packaging, making the certification mark practically useless for the intended purpose. Instead of certifying that the package is air eligible, we will now be required to stock yet another packaging for air shipment – one with the airplane marked upon it. It is Fisher's understanding that the purpose of the mark is for the shipper to verify and be held accountable for ensuring that the packaging is prepared in compliance with the air regulations, whether DOT or ICAO. If that understanding is correct, having the mark preprinted on the packaging will not ensure that the shipper complies with the requirements. The shipper certification on the shipping paper is also designed to provide the information of acceptability. Fisher agrees that packages should be certified as acceptable for air transportation and recognizes the additional requirements involved in this mode of travel; however, we are not in agreement with this Notice of Proposed Rulemaking on the methodology proposed for US shipments.

Once again, Fisher thanks you for the opportunity to comment on this notice. Although our comments are few, we consider them to be very important and sincerely request that they be given serious consideration in shaping the final rule.